

Critique of Just War Theory: Revision of Traditional Dichotomy & Its Implications for Justified Violence

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Abstract

The aim of this paper is to ascertain the limits of the violence a person waging a just war can conduct. To decide where the limits are set, or rather should be set, a discussion of just war theory is required to decide on the people that are viable targets for violence. Within traditional just war theory the viability of targets are based upon the combatant vs. non-combatant dichotomy, which in turn is based upon categorizations of people in either one of the sides. After a brief introduction into the general outlines of traditional just war theory, the traditional dichotomy will be presented through Michael Walzer. Walzer, in turn will be critically analyzed through Igor Primoratz. After the critical analysis a revised dichotomy based on revised categorizations will be presented. The proposed revision will be shown to withstand criticism through the refutation of the objections that Robert Sparrow sets forth. Finally, the implications for terrorism that the revised dichotomy and categorization hold will be discussed.

I. Traditional Just War Theory

A. General Introduction

As a concept, just war dates back to Ancient Greece. The likes of Plato and Aristotle have thought and written about wars being just and moral. After Ancient Greece the discussion of just war ceased until the scholastic period, during which St. Augustine revived it. Although St. Augustine was the one to bring just war back into the spotlight, it can be said that St. Thomas Aquinas was the one that fathered Just War Theory, which is the systematic evaluation and discussion of the concept of just war. In his monumental work *Summa Theologica* Aquinas delves into the discussion of just war, where he writes out 7 criteria for a war to be just. Although there have been a plethora of works on just war theory after Aquinas, especially in the 20th century, most of the post-Aquinas literature on the subject has broadly followed the framework Aquinas created. This being the case, we will use Aquinas' framework to summarize just war theory as it stands in the tradition, through sketching the criteria he sets forth we will set the terminology for the discussion ahead.

Aquinas' criteria will be mentioned in name only and will be explained further in the pages to come. The criteria are as follows: Last resort, legitimate authority, just cause, probability of success, right intention, proportionality and discrimination. Although Aquinas unifies the criteria in one category of principles of just war, we will, like most contemporary discussions, discuss them in two categories, namely the categories of *jus ad bellum* and *jus in bello*. The former is the criteria for the justness of the origin of a war. The latter is the criteria for the justness of the methods of waging of a war.

B. Jus ad Bellum

As said above, the category of *jus ad bellum* is concerned with the origin of a war, or rather how and why a war is initiated. Out of the 7 criteria for a just war 5 are included in the category of *jus ad bellum*. These 5 criteria are as follows: Last resort, legitimate authority, just cause, probability of success and right intention. In this section all 5 of the criteria will be sketched.

The criterion of last resort refers to the principle that war cannot be just unless it is the only option left at hand. A war can only be just if all peaceful and non-violent options were used and bore no fruits. This criterion ensures that warmongers cannot wage a just war and only people who have a disposition for peaceful resolutions can wage a just war as a final means that presents itself once all other possible avenues for resolution have been exhausted.

The criterion of legitimate authority refers to the principle that a war cannot be considered just unless it is initiated and waged by a legitimate authority. What constitutes a legitimate authority; under what conditions a body or person becomes legitimate can be debated and provided with differing answers. The principle itself, however, is very basic and clear. Since in traditional just war theory war is a communal act, in the sense that individuals cannot wage war but only political bodies can, individuals or groups that are not representative of the entirety of a political body cannot claim legitimacy and therefore any war they wage would be unjust. This principle aims to stop multitudes of people and groups to utilize just war as their method for political gains, which would result

in mayhem. Instead the principle makes sure that only legitimate political actors representing political bodies can wage just war, ensuring just war remains off limits for most actors and that just war remains only for the legitimate sovereign instead of petty whims of random people and groups.

The criterion of just cause refers to the principle that a war can only be just if the reason for initiating the war is considered just. Similar to legitimate authority, the contents of the predicate “just” can be discussed and is not fixed. The principle itself, however, is clear in a categorical manner. In the tradition the thing that makes a war just is if it is in response to a wrongdoing. A war for self-defense or for retaking a previously conquered land, for example, would be just because it is in response to harm inflicted. However, as said above, what constitutes a just cause may differ from one interpretation to another.

The criterion of probability of success refers to the principle that a war cannot be just if there is no reasonable prospect for victory. This principle aims to make sure that there are no just wars fought in vain, therefore ensuring that there are no wasteful deaths, even if the cause is just.

The criterion of right intention refers to the principle that a war cannot be just unless the intentions of those who wage it are right, even if all the other criteria, such as just cause, are met. A war must be pursued and waged with the intention to undo the initial harm that created a just cause; it must aim to establish peace. If the actors waging the war are merely using the just cause for a means for an end other than a right one, such as establishing peace, the war at hand becomes unjust.

C. Jus In Bello

The two criteria remaining are included in the category of jus in bello, the category about the justness of the methods of waging a war. This category is concerned with how the actors go about waging their wars. Jus ad bellum alone only determines the initiation of the war as just or unjust, for a war to be truly just the actors waging it must adhere to principles of justice throughout the war.

The two criteria that must be observed are the criterions of proportionality and discrimination.

The criterion of proportionality refers to the principle that the reaction to an action must be in equal strength, or not be exaggerated. The level of violence must not exceed, out of proportion, the violence inflicted upon oneself. Violence must be used surgically, so to speak, so that no more than the amount necessary is used. Similar to the criterion of probability of success, which aims to avoid wasteful death, this criterion also ensures that no more than absolutely required is subjected to violence. An example would be to avoid slaughtering the enemy auxiliary forces if they are expected to surrender once their vanguard is defeated.

The criterion of discrimination refers to the principle that in a just war the dichotomy of combatant vs. non-combatant must be respected and accordingly only combatants must be targeted. This criterion aims to prevent the deaths of innocents and defenseless people. The idea is that since the combatants are armed and are the ones carrying out violent acts only they are viable targets since they pose immediate threat and have the capacity to defend themselves and are the responsible ones for the violence. An example of this criterion would be the actors waging a just war conquering a city and only killing the armed defensive force and not attacking the civilian populace.

C.I. Combatant vs. Non-Combatant Dichotomy

The criterion of discrimination is the most respected rule of war in contemporary warfare. Derived from the combatant vs. non-combatant dichotomy, it stands as the most absolute moral standard for warfare. This paper aims to undermine this dichotomy, and by implication the criterion of discrimination, in its current form. It will be argued that although a dichotomy similar to the combatant vs. non-combatant dichotomy is called for, the criterion at hand is both counter-intuitive and lacking in dealing with contemporary warfare. The next part of the paper will consist of the critical analysis of the

combatant vs. non-combatant dichotomy, which will be referred as the false dichotomy from this point on.

II. The False Dichotomy

A. Rationale of The False Dichotomy

The false dichotomy will be analyzed and critiqued in the form that Walzer presents it in his monumental book *Just and Unjust Wars: A Moral Argument With Historical Illustrations*. To give an analysis and critique we must first understand the rationale Walzer employs to set the dichotomy up. Walzer sets up the dichotomy through two strands of arguments for two respective categories of people that can be considered viable targets for violence.

The first category consists of people that are not responsible for the initial aggression that created the just cause for the just war at hand, but are nevertheless people that are the tools for the initial and following aggressions. This category will be called The Category of The Non-Responsible from now on. The second category consists of people that are responsible for the initial aggression that created the just cause for the just war at hand. This category will be called The Category of the Responsible from now on. The arguments for the two categories' viability for violence will be given in the coming sections, but here it must be noted that Walzer takes the people in these categories to be the only people that are viable targets and therefore, by implication, anyone outside these categories are non-viable targets for violence, thus setting up the false dichotomy.

A.I. Argument for The Category of The Non-Responsible

Before going into the argument of how this category qualifies for viability for violence, let us write out the constituents of the category. There are two sub-categories of the category. The first consists of the combatants themselves, namely soldiers and military personnel. The second consists of those civilian workers that produce supplies of war and of military nature. It is important to note, as mentioned above, that this category consists of people that are not

responsible for the war itself and thus their viability is not derived from their moral or political culpability at all, but rather from a practical perspective. Their viability is derived from the fact that they pose a threat to the attacked populace.

The first sub-category, which is the category of military personnel, is made viable by the fact that “he (the soldier) has been made into a dangerous man” (Walzer, 2015, p.145). It is of no consequence at this point whether the soldier had a limited set of options and thus was not perhaps completely free because “it is nevertheless accurate to say that he has allowed himself to be made into a dangerous man” (Walzer, 2015, p.145). Walzer allows for the targeting of military personnel on grounds that they pose immediate threat to the attacked populace and from the claim that the latter has a right to act, which is derived from the right to self-defense.

The second sub-category, which is the category of civilian workers aiding the war effort, is made viable by its reduction into the first category. Here Walzer makes a crucial distinction between workers. He acknowledges that any product ranging from food to medicine, from ammunition to tents, can be used to serve the war effort. However, he goes on to point out that the “relevant distinction is not between those who work for the war effort and those who do not, but between those who make what soldiers need to fight and those who make what they need to live, like the rest of us” (Walzer, 2015, p.146).

With this distinction, which is in similar nature to the argument for the first sub-category in that it only condemns workers that work towards making soldiers “dangerous”, Walzer makes sure that only workers aiding in the direct increase of threat are viable targets. He argues that such workers are “assimilated to the class of soldiers”(Walzer, 2015, p.146) since they directly increase the danger the attacked populace faces. But it is important to note that Walzer limits the attacks on these workers by saying that “they can be attacked only in their factory, when they are actually engaged in activities threatening and harmful to their enemies” (Walzer, 2015, p.146).

A.II. Argument for The Category of The Responsible

Again, before going into the arguments of why this category demands viability for violence, let us state the constituents of the category. This category consists of people that are responsible for the war itself, and thus the just cause of the just war at hand. They are responsible for the initial act of aggression and are thus effectively responsible for the resulting outbreak of continued violence, albeit not necessarily for the form in which the violence in question was executed. This idea of Walzer that certain individuals can be responsible for the acts of a state is seen when he claims that “acts of state are also acts of particular persons, and when they take the form of aggressive war, particular persons are criminally responsible” (Walzer, 2015, p.291). By this line of reasoning Walzer concludes that some people within the state apparatus are directly responsible for the war and thus constitute the category at hand.

In trying to pin down these persons Walzer claims that it “makes sense to begin with the head of state (or the effective head) and the men and women immediately around him, who actually control the government and make key decisions” (Walzer, 2015, p.291). So, we can conclude that Walzer claims the category to consist of high political officials and anyone that has a direct effect on these officials or the policies themselves.

At this point the reasoning for the viability of this category ought to be rather obvious. Walzer, in defining groups that have immunity, refers to the fact that all those that possess immunity have the common trait of not being “currently engaged in the business of war” (Walzer, 2015, p.43). From this point it follows that those that are engaged in the business of war forsake their immunity. We have seen above that those people that are not responsible for war but who are mere tools are considered to be engaged in the business of war. It follows that the actual agency that wields and commands these tools are necessarily engaged in the business of war and therefore forsake their immunity and are viable targets for violence.

B. Critique of The False Dichotomy

Now that an account of the False Dichotomy, as Walzer presents it, has been given, this chapter will give a critique of it. The critique in this chapter will be given with reference to Igor Primoratz's paper *Michael Walzer's Just War Theory: Some Issues of Responsibility*, in which he criticizes Walzer's understanding of responsibility and how it contributes to what we have dubbed the false dichotomy. Mirroring the previous chapter, this chapter will consist of two sub-chapters, the first for the critique of the category of the Non-Responsible and the second for the critique of the category of the Responsible. Although Primoratz criticizes both of the categories Walzer depends upon for the false dichotomy, the critique of the category of the non-responsible will only be briefly sketched since it is of no great relevance to the point of this paper, as will be explained. The critique of the category of the responsible, however, will be detailed as it is of paramount importance for the next chapters, which will write out the proposed dichotomy and its implications for terrorism.

B.I Critique of the Walzerian Category of The Non-Responsible

As we have seen Walzer's category of the non-responsible consists of soldiers and those civilians that have been "assimilated" into the class of soldiers, which are workers that create products that are directly related to military efforts, such as weapons and ammunition. Through his critique, Primoratz's aim is not to add further groups of people into the category but to challenge the claim that the category is of equal moral standing on both sides, namely the aggressing and defending sides, or rather the unjust and just sides, respectively.

Since the final aim of this paper is to discuss the limitations for violence that the just side is required to uphold, we have not discussed until this point the distinction between the sides with regards to their limitations for violence. At this point, however, we must briefly touch upon this subject since Primoratz's critique of Walzer with regards to the category of the non-responsible is precisely about this, namely Walzer's claim that the people in this category on

both sides of the war have a moral equality, that “they (soldiers) find in each other moral equals” (Walzer, 2015, p.36). What Walzer argues by this point is that since soldiers are not responsible for the war itself but only for their own conducts within it, they are, unless they commit atrocities, morally equal and thus have an equal license to kill, which means that soldiers fighting an unjust war are not morally culpable anymore than those fighting a just war.

Primoratz, on the other hand, argues that the excuses Walzer gives to absolve soldiers from any responsibility regarding *jus ad bellum* does not stand and thus those “soldiers fighting for an unjust cause and those fighting for a just one are not morally equal” (Primoratz, 2002, p.230) and, therefore, “the former (soldiers fighting for an unjust cause) have no license to kill at all” (Primoratz, 2002, p.230). Through this argument Primoratz effectively denies the existence of the category of non-responsible on the unjust side.

B.II. Critique of the Walzerian Category of The Responsible

The Walzerian category of the responsible, as seen above, consists of those people that are directly responsible for the war itself. These people, according to Walzer, are high political officials and anyone else that have direct effects on the governance of the country and in the specific case of war the governance of the war. The revision Primoratz aims at in giving his critique of Walzer is to extend the category of the responsible to include a portion of the civilian populace. He claims that with regards to responsibility for the cause of war, civilians that have supported and continue to support the government, which directly executed the policy of war, also have a share in the responsibility.

The main thrust of Primoratz’s argument is that Walzer and his intellectual kin all “operate with too narrow an understanding of innocence” (Primoratz, 2002, p.236), which is an understanding that concludes “one is innocent as long as one performs no act of war oneself nor provides those” (Primoratz, 2002, p.236). Primoratz’s critique of this understanding is twofold. First he argues, “innocence of civilians in war shouldn’t be solely construed in terms of self-defense” (Primoratz, 2002, p.237). Second he argues that Walzer is holding on to an

outdated view of citizenship and statehood and the implicated question of sovereignty. Both of these lines of argument will now be detailed.

With regards to sovereignty and individual responsibility Walzer argues, as we have seen, that the citizenry, or rather the electorate, does not share into the responsibility for the war. This lack of responsibility of the individual citizen stems from Walzer's conception of states and governments, old and new, as being distant and rather alien to the electorate in that the individual citizen does not have the capacity to properly judge or affect them. By this line of reasoning Walzer confers upon governments "a kind of regal responsibility" (Walzer, 2015, p.301) that mirrors the situation of Feudal Europe where the peasantry had no say in matters of governance and thus was naturally exempt from any relevant responsibility. Walzer himself admits that if there were a perfect democracy, citizens that voted for the aggressing government would be held accountable, but since what we have are imperfect democracies the aforementioned argument of regality stands and the citizenry is spared any responsibility.

Against Walzer's account of real, contemporary states and governments Primoratz offers an alternative reading. He aims to position himself in the middle, between Walzer who absolves the majority of the citizenry of any relevant responsibility and Michael Green who claims "the people remain responsible for what the government and military does even in a tyrannical regime" (Primoratz, 2002, p.234). Primoratz claims that there is a nuanced view of responsibility and culpability in between, one that depends on the type and form of the state and government citizens are operating within. This view depends on the distinction between undemocratic and democratic states. With the former Primoratz "sticks to the view that preceded the French Revolution" (Primoratz, 2002, p.235), which is effectively what Walzer retains for every contemporary state. For the latter, however, the citizenry shares into the responsibility since "it is indeed the people who decides, while both the government and the military are mere executors of the people's will" (Primoratz, 2002, p.235).

This view of contemporary democracies, Primoratz claims, is a simple logical conclusion of what we usually use to justify sovereignty of states and governments, which is individual consent and liberty to do so. Primoratz argues that if we “take seriously the freedom, rationality, and responsibility of human beings, as well as the implications of democracy, however imperfect” (Primoratz, 2002, p.241) we arrive at the conclusion that individual citizens can be responsible for their states’ and governments’ actions.

Having concluded that citizens that support the aggressing government are fully responsible for the aggression Primoratz goes on to argue against what we have mentioned earlier as “too narrow an understanding of innocence”, which he claims a number of philosophers within the tradition hold. This understanding is derived from, Primoratz claims, the principle of self-defense, which “entitles us to attack those, and only those, who are attacking us, in order to fend off their aggression”(Primoratz, 2002, p.236). By this understanding the attacked nation cannot attack the aggressing nations’ supporting civilians even if they are deemed responsible since they are “innocent”.

But, Primoratz continues, “the self-defense view of innocence can’t be all there is to it” (Primoratz, 2002, p.236). He gives two hypothetical examples to better illustrate the counter-intuitive nature of this view. Both examples have three agents, A, B and C and in both, A wants to kill C. In the first, A hires B to do the killing and in the second, A hypnotizes B to do killing. In both cases C can either kill A or B to save herself. It is important to note that in both cases the original aggressor is A and B is only a consenting and non-consenting tool, respectively. Considering these two cases Primoratz argues that if we take the self-defense view of innocence as the sole view we cannot differentiate between the cases where C opted to kill B rather than A. But it is obvious that A is responsible in both whereas B is only responsible for the first case. Furthermore one must also note that if C kills B and not A in the first case, the original aggressor remains and thus the threat persists and the truly culpable person remains untouched. Therefore, Primoratz concludes, self-defense cannot be the only designator of innocence; the notion of responsibility also plays into it.

III. Revision of The False Dichotomy

A. Proposed Dichotomy

Having given a critical analysis of the false dichotomy as Walzer presents it, which, as we have seen, in practice amounts to the combatant vs. non-combatant distinction through the categories of the non-responsible and responsible that exclude all those that are not “engaged in the business of war”, which is the prime cause for viability for violence. Stemming from the notion of innocence with reference to self-defense, which has been discussed and refuted above, Walzer’s categories only include those that are directly involved in the war effort and excludes the citizenry since they are not directly involved even if they are supportive of the effort itself and would see it prolonged.

The basis for excluding the citizen sphere from any possibility of violence has two levels, as we have seen, and both of these levels, namely the narrow understanding of innocence and the misconception of sovereignty of contemporary states, have been refuted. Now, based on these refutations, let us detail the new, proposed dichotomy, which has already been roughly sketched in the critique of Walzer by Primoratz. Similar to the previous chapters, this chapter will also lay out the proposed dichotomy in two sub-categories, namely the categories of the non-responsible and responsible. After the dichotomy has been presented, some objections to it from Robert Sparrow’s paper *“Hands Up Who Wants to Die?”: Primoratz on Responsibility and Civilian Immunity in Wartime* will be presented and duly responded to.

A.I. The Proposed Category of The Non-Responsible

Active military personnel and workers producing military equipment constitute the Walzerian counterpart of this category. Moreover, as we have seen, both the just and unjust sides of the war boast this category based on Walzer’s claim of moral equality of soldiers on both sides. Primoratz, however, refuses this equality by arguing that the soldiers on the unjust side are accountable to the war itself and their participation in it. By this refusal he concludes that the

soldiers on the unjust side have no license to kill and they are, in effect murderers. Moreover this refusal amounts to the eradication of the category of the non-responsible for the unjust side since this category is also held accountable to the initial aggression. Primoratz's stance may be just in many cases but it is not hard to imagine a case where the unjust side's soldiers are indeed forced against their will. By virtue of such a case it is best not to deny this category to the unjust side in a universal manner.

With the reintroduction of the category for the unjust and aggressing side, it must be clear that there is, in fact, not much of a difference from the Walzerian counterpart of this category. Mirroring Walzer's category, the proposed category also contains soldiers and military-related civilian workers. The only palpable difference is that the category on the unjust side is possibly fewer in numbers since only those soldiers and workers that are forced are now in this category, whereas those that have willingly joined the unjust cause are culpable and are in the category of the responsible.

A.II. The Proposed Category of The Responsible

The category of the responsible holds a much more crucial role in this paper since its revision holds practical implications that are significantly more than the revision in the previous category held. Where the previous category underwent a revision that resulted in no considerable change for the practice of just war, the revision in this category necessitates massive changes in the practice of just war. The change in question is, following Primoratz' critique, the addition of supportive citizens to the category of the responsible. Where the Walzerian category included only high political officials and those people that have direct influence over the governance of war, the proposed dichotomy also includes citizens that support the government and people directly affecting it. The reasons behind this addition have been discussed in the critique of the Walzerian category, so there is no need to go over them in detail again.

It is important, though, to specify what "supportive citizen" means. Here, let us turn again to Primoratz who divides the citizenry into three categories: active

supporters, passive supporters and opponents. Active supporters are those that “actively support the government and the war... vote for the ruling party, give allegiance to the government that is pursuing the war, express support for the war on appropriate occasions” (Primoratz, 2002, p.236). So anyone that desires the war and the government waging it and acts upon this desire is an active supporter who is “fully responsible for the war” (Primoratz, 2002, p.236).

A passive supporter is that citizen that chooses to remain inactive, both for and against the war, due to indifference or to a lack of knowledge accompanied by indifference again or to lack of hope for change. For the cases of indifference she either knows the war is unjust and does not care or does not know but also does not care to know. In the former case she remains knowingly inactive in the face of injustice thus making her an accomplice if not directly responsible. In the latter case she is facing a situation where many are dying and suffering. The justness or the unjustness of this cruelty, she does not know, but she has a capacity to judge the situation for herself. Her failure to ascertain the nature of the situation is due to her indifference, which cannot be justly maintained when there is something she can do to prevent the cruelty at hand if she were to judge it unjust. So, in both cases “her refusal to be involved is tantamount to passive support of the government and the military” (Primoratz, 2002, p.237).

The citizen who remains inactive due to her lack of belief in any change her actions might bring forth, also becomes a passive supporter. She is a passive supporter because “the imperfections of democracy are constraints on what she can accomplish, not excuses for doing nothing” (Primoratz, 2002, p.238). Even if she faces insurmountable obstacles, she can protest symbolically. In doing so she lets the government know that she, as a citizen of the aggressing nation, does not approve of the government and condones the war effort.

An opponent citizen is that person that actively opposes the government. This opposition can take many forms ranging from voting against the aggressing government to public dissidence, from withholding taxes for the war effort to protests and marches. When a citizen voices and manifests her opposition in

such a manner, either with hopes of actually altering the situation or as a mere symbolic act, she becomes an opposition who is not included into the category of the responsible. She retains her immunity because she refuses to engage in war effort and to the contrary does all she reasonably can to stop it.

In conclusion, the proposed category of the responsible brings with it the addition of supportive citizens, thus separating itself from the traditional dichotomy, which we have dubbed the false dichotomy. It is important to note, however, that only actively supportive citizens are to be included into the category. This limitation to active supporters, and the implicated exclusion of passive supporters, goes against Primoratz, who argues that passive supporters are responsible, albeit not the same degree as the active supporters, and some level of violence is justified. Primoratz's position on passive supporters, however, is hard to retain, since the line of when and how we differentiate them and the level of appropriate violence that is just, are all questions that have ambiguous answers. Due to this ambiguity, which can admittedly be perhaps solved with a very detailed account that is unfortunately beyond the scope of this paper, the proposed category in this paper only includes actively supportive civilians that are clearly identifiable.

A.III. Possible Objections to The Proposed Categories

Robert Sparrow, in his paper *"Hands up Who Wants to Die?": Primoratz on Responsibility and Civilian Immunity in Wartime*, attempts to criticize Primoratz's critique of Walzer and his reformulation of the categories of viable targets. This chapter will aim to respond to the objections Sparrow raises against the reformulated dichotomy. Before moving on to the objections, however, it is important to note, once again, that the categories and by result the final dichotomy that this paper espouses are different than that of Primoratz's. These differences are important by virtue of the fact that they allow the revised dichotomy to avoid some of Sparrow's objections.

The differences in question are, as was written above, as follows: for the category of the non-responsible we hold that some of the soldiers of the unjust side retain

their case for non-responsibility, contrary to Primoratz's claim that all the soldiers are responsible for the war itself since they had a responsibility to judge the merits of the war and decide to join or not. The difference for the category of the responsible is that we take only actively supportive citizens that are identifiable to be in the category of the responsible, contrary to Primoratz's claim that passively supportive citizens also are responsible to a certain degree. Now that the categories, as they are maintained in this paper, are clear, we can move on to responding to the objections, of which there is a total of 10. The format will be somewhat dialectical in that each objection will be clearly written and then responded to in an individual, point-by-point manner.

Objection. I: Sparrow claims that Primoratz's revision would "greatly increase civilian casualties in wartime" (Sparrow, 2005, p.304) due to the fact that a number of collateral damage is acceptable in the practice of war. Sparrow points out that whilst civilian casualties are rare when targeting military targets, they would be much more frequent if civilian targets can also be attacked. The example he gives is that of a settlement with %90 active supporters, which would constitute a legitimate military target in the revised category and thus condemn the remaining %10.

This is a legitimate worry that helps to better the revised category and its implied methods of war. It can be solved with an additional clause to regulate military conduct when it comes to directly targeting civilians. Collateral damage is, unfortunately, an unavoidable result of warfare but with regards to targeting civilians we must add a non-flexible principle of discrimination, which effectively denies the justness of any collateral damage in an operation targeting civilians. This principle would not only allow the revised category to avoid the abovementioned objection but also prepares it for its implications on terrorism, which will be discussed further on.

Objection. II: This objection is with regards to unjust aggression. Sparrow points out that since actively supportive civilians are in the same category with those directly engaged in the business of war, the unjust aggressors' only crime in

killing them is her lack of license to kill with regards to anyone. By this token, Sparrow claims that there remains no difference of level of criminality between an unjust murder of a soldier and an unjust murder of an actively supportive civilian because the “wrong here is the war itself” (Sparrow, 2005, p.306).

By this objection Sparrow aims to corner the revised categorization through a vague reference to our intuitions and commitment to the traditional theory. But it is perfectly logical, and morally sound, to “bite the bullet” and accept this point. Yes, there is no difference of criminality between an unjust murder of a soldier and a civilian because both were forced into this war through the same unjust aggression.

Objection. III: Sparrow points to the fact that Primoratz’s revision would lead to the viability of people that are not citizens of the aggressing side. Since he includes all those individual citizens that, actively or passively, support the war into the category of the responsible there is no reason to stop at the citizenry. Anyone from around the world could be held accountable if they are actively supporting the war or even if they have a capacity to demand change and don’t act to do so. Sparrow gives the example of the U.S., since it is the closest thing in the world to a hegemon it has the capacity to intervene and stop wars. By this token Sparrow argues that Primoratz’s revised categorization would hold any citizen of the U.S. to be a passive supporter if she does not act to protest the war, which is fought in a far off land, and demand her government to stop it. This is a good point, especially when Sparrow combines it with the point that to avoid it Primoratz would have to give citizenship a primary role, thus undermining his own position on the primacy of the individual.

However, the categorization as we hold it, namely by including only actively supportive citizens, avoids this problem rather easily. It is true that if we take passive support as a designation of criminality then the whole system would result in mayhem, but if we take, as we do, only active support then there is no problem in accepting that individuals that are not citizens can also be targeted if they overtly support the unjust war and are identifiable. The actively supportive

citizen was in the first place condemned by reference to her moral responsibility, the actively supportive non-citizen is also condemned by her moral responsibility and this constitutes no problem.

Objection. IV: Sparrow claims that the citizenry is absolved of responsibility because “it is rare for the decision to go to war to be put before parliament, let alone before voters in an election” (Sparrow, 2005, p.309) and that “public opinion about war reflects the state’s decision to go to war rather than drives it” (Sparrow, 2005, p.309).

The first point of this objection holds only if the voted government manipulated the citizenry by outright lies, and even in that case it would hold for only one term. So, if a government made no reference to aggressive policies during election but pursued them after the fact, the citizenry could be absolved for the aggression of that first term, but if the same government is reelected the citizenry would bear responsibility. The second point holds in no case since the citizen that falls prey to the warmongering of the executives cannot refer to her “weakness” or ignorance to absolve herself, as Primoratz argued, the citizen has a responsibility to be wary and reluctant towards wars and to ascertain their nature before any she takes any position towards it.

Objection. V: Sparrow gives the example of a citizen who is against war but cannot join the protests or publicly show her opposition due to situations out of her control. He points to the fact that this person would be considered a passive supporter in Primoratz’s categorization and is a viable target for a certain level of violence. Sparrow, rightly so, concludes that it is clear that this person cannot be held accountable just due to the fact that she could not attend anti-war rallies.

Sparrow is right on this point against Primoratz, however the categorization this paper holds, as has been pointed out, does not include passive supporters but only active supporters that can be clearly identified, and therefore avoids the objection.

Objection. VI: Sparrow argues that revised categorization condemns civilians to death and violence by reference to their opinions. He argues this point by claiming that no individual citizen directly increases the threat level against the attacked populace, but that all an actively supportive citizen does is develop an opinion of support towards the war. Sparrow complains that Primoratz's account is "profoundly moralistic" (Sparrow, 2005, p.313), and claims that it condemns supportive citizens for their moral judgments rather than their actions.

This objection does not hold for two reasons. First off, Primoratz accepts and embraces the moralism of his account when he refutes the understanding of innocence as solely derived from self-defense. He argues for, rather convincingly as was demonstrated above, that the fact that a person creates no immediate threat does not mean that the person in question is innocent. Secondly, the supportive citizens in question do not lose their immunity solely by virtue of their moral opinions but they lose it by virtue of the violence and destruction their moral opinions have propelled through their acts as citizens, namely voting and supporting the aggressive government.

Objection. VII: Sparrow argues that the "sense of innocence Primoratz's argument turns upon" (Sparrow, 2005, p.315) cannot justify the killing of forcefully conscripted soldiers. Here Sparrow is referring to Primoratz's refutation of the understanding of innocence as it is derived from self-defense.

The objection does not hold, however, because Primoratz refutes the understanding of innocence as it is derived from self-defense only as the sole understanding of innocence. He does not discard this understanding but only adds unto it also the understanding of innocence as it is derived from personal responsibility. So, Primoratz's account would not have a problem in justifying the killing of forced conscripts in the same manner almost all other theories of just war justifies it.

Objection. VIII: Sparrow points to the fact that in Primoratz's categorization it is individuals that are at war rather than states and argues that such a relation is implausible since they don't have a relation with each other. Furthermore Sparrow, again, refers to individuals creating no immediate threat to each other to argue for the injustice of them killing each other.

The second part of this objection has been answered in the previous objections and thus requires no further answer. The first part however demands an answer. Sparrow inquires into the nature of the relation between the individual citizens of the states at war and claims that they hold no tangible relation since "they couldn't even identify each other... nor is there any attitude or emotion that any given individual holds towards all these other individuals" (Green, 1986, p. 121). This anonymity, however, does not pose an insurmountable problem. Once the category of the responsible includes actively supportive civilians it does not need to latch onto all the members immediately. The relation between the anonymous individuals will demand action only once both sides are revealed, which will be the case when an action justifiable. Until that point of diminishment of anonymity, the fact that the categories cannot specify their members is not contradictory to the existence of a warlike relation between them but only contradictory to the specific acts of violence targeting specific individuals, which, again, would cease to be a problem after the diminishment of anonymity.

Objection. IX: Sparrow claims that "the state conceptually prior to its citizens" (Sparrow, 2005, p.316) and argues that this means that a "state represents all of its citizens and not just those who support its policies" (Sparrow, 2005, p.306) since to be a citizen an individual must first be a subject to the state. Pointing that this bond between citizen and state "remains intact even when they (the opponent citizens) disagree with a polity" (Sparrow, 2005, p.316), he goes on to conclude that, this being the case, when a state wages war it does so with the full representation of its citizenry. The final implication from this situation that Sparrow draws is that simple opposition within the state does not retract the opponent citizens representation, but if she wishes to get out of the shared

responsibility for the conducts of her state she must renounce her citizenship and leave the state (Green, 1992).

The entirety of this objection relies on a fallacy of equivocation. Sparrow uses the word “state” to refer to both the political entity that is called a state and what we usually call the government, namely the executive body running the state for a certain amount of time. While it can be argued that the citizen is dependent upon the state, the same is not true for the government. On the contrary, the citizen is prior to the government and the latter is dependent on the former. So, to avoid taking responsibility for the acts of a government one need only act within the political realm of the state to oppose the government and its policies. Sparrow would be right if a state were to have unalterable policies, but that is not the case in modern contemporary democracies and thus is a mute point.

Objection. X: The final objection that will be entertained is regarding terrorism. Sparrow points to the fact that in the revised categorization “a potentially broad range of attacks on civilian targets will cease to be ‘terrorist’ – as long as they target civilians who support governments who are involved in an unjust war” (Sparrow, 2005, p.306). He acknowledges, and rightly so, that terroristic methods of warfare would benefit greatly from this revised categorization since they would not be constrained by the practical limitations of strict discrimination policy, which prohibits both the targeted and collateral deaths of civilians other than those that actively support the government.

The entire objection, or rather complaint since it holds no argumentative basis at all, depends upon the assumption that “terrorism” is bad, which is simply the result of the traditional categorization. But trying to refute the new categorization by referring to the traditional categorization’s results does not work. The entire build up of the new categorization has been through the refutation of the traditional categorization and therefore the new categorization is not bound by the traditional categorizations’ standards. The following, and final, chapter will further discuss the implications of the new categorization for

terrorism, which will be taken at face value and not with its negative connotations.

IV. The Implications For Terrorism

What the revised categorization of the dichotomy means for terrorism will be explained in two parts. First part will be regarding theory, namely the fact that terrorism is now justifiable in a categorical manner on the theoretical level. The second part will be regarding the practice, or rather how the theoretical justification's manifestation is limited by reality. It must be noted, however, that the main point is the fact that the revised categorization justifies some sorts of terroristic attacks.

A. Justification of Terrorism

The revised categorization includes actively supportive civilians in the category of the responsible, therefore making them viable targets for violence in war. Another important change the revision brings about is with regards to the understanding of the relation of war. Where the tradition holds war to be a relation between states, the revision puts the focus on individuals and thus making it theoretically possible to include groups and individuals to wage just war. The only obstacle in the waging of war against supportive civilians, as Primoratz acknowledges, is the fact that it is not easy to differentiate between the responsible and non-responsible civilians. At this point the admittance that terrorism is in an uniquely qualified position to overcome this obstacle comes from Sparrow, who points out that terrorism is the form of war that reaps the most benefit from the revision.

Following this line of reasoning it is easy to see how terrorism is justified in the revised categorization. The reasoning can be summed as follows: when there is a just cause and a method that is uniquely suited to further this just cause without creating unjust results, then it follows that the method is also just. It must be noted that the revised categorization includes the non-flexible principle of

discrimination when it comes to targeting civilians. This principle makes sure that terrorism that can be justified is strictly discriminatory terrorism, which targets and kills only those individuals that are actively supportive of the government and condones the notion of acceptable level of collateral damage. Similar to bomber plane pilots flying low to minimize risk of collateral damage whilst increasing risk for destruction for themselves, the discriminatory terrorist also goes out of her way to make sure no collateral deaths occur, even if it means she risks herself in the process.

B. Non-Discriminatory Terrorism

It is crucial to understand the limits of justified terrorism, and to achieve this understanding it is best to turn to its negation. Where terroristic attacks against individuals actively supporting a government waging an unjust war are justifiable when they abide by the non-flexible principle of discrimination, any other form of terroristic attack is unjustified and amounts to murder.

Let us break down the three parts required for a terroristic attack to be justified: response to an unjust war, sole targeting of active supporters of the aggressing government and strict adherence to the non-flexible principle of discrimination. The requirement of unjust wars can be discussed further, since one could possibly come up with situations other than unjust war that could demand violence, but for our current endeavor it is to be taken at face value. The second part, about the targeting of active supporters alone, amounts to the denial of targeting anyone other than clearly identifiable active government supporters. If there is doubt about the target being a supporter or not, no action can be taken, only and only if the identification is certain can action be taken. The last part, the non-flexible principle of discrimination, means that terroristic attacks cannot be done with accepted collateral damage. They must always aim to diminish collateral damage, not reduce it. Any terroristic attack that does not adhere to this three-part code would not be justified in the revised categorization of the dichotomy.

V. Conclusion

The aim of this paper was to ascertain the limits for the violence the person waging a just war could conduct. This question has been attempted to be answered through a critical discussion of Walzer, Primoratz and Sparrow that culminated in a revised version of the traditional dichotomy and categorization. The main argument of the paper was that the revised version deals with contemporary issues of warfare and responsibility much better than the traditional version. The final point has been the claim that the revised version justifies a specific sort of terrorism, namely strictly discriminatory terrorism, while refusing most of terrorisms real world examples any hope for justification.

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